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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/847,545

05/03/2001

Cuong V. Do

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07/27/2006

COVINGTON & BURLING
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WASHINGTON, DC 20004-2401

EXAMINER

AKINTOLA, OLABODE

ART UNIT

PAPER NUMBER

3624

DATE MAILED: 07/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/847,545	Applicant(s) DO, CUONG V.	
	Examiner Olabode Akintola	Art Unit 3624	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) 15-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 23-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11/18/03/07/25/02</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is in response to applicant's communication filed on 6/30/2006. Claims 1-46 are pending. Claims 1-14, 23-46 are elected. Claims 15-22 are withdrawn from consideration.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-6, 23, 24, 26, 27, 31, 34, 35, 37, 38, 39, 43 and 46 are rejected under 35 U.S.C. 102(e) as being anticipated by Brett et al (U.S. Patent No. 6023685) (Brett).

Re claim 1, 6, 23, 27, 34, 38 and 39: Brett teaches a method of conducting a bidding session, comprising the steps of: establishing a communications channel between a bidding session server and a web browser residing on a remote terminal (Abstract); transmitting bidding session status information from said bidding session server to said web browser via said communications channel (col. 4, lines 53-56); receiving a bid from said web browser via said communications channel (col. 4, lines 61-62); and in response to receiving said bid, transmitting an update of said bidding session status information to at least one web browser residing on at least one remote terminal, wherein said update has not been requested by said at least one web browser (col. 4, lines 61-62; col. 10, lines 33-38).

Re claims 4, 24 and 35: Brett teaches the step wherein said bidding session status information comprises data representative of at least one of the following: a bidding session sponsor, a bidding session objective, a bidding session format, a bidding session date, a bidding session timer, a product being put to bid, a product specification, a required quantity, a contract duration, a contract delivery requirement, a contract performance penalty, a starting bid, a last bid, a bidding rank, a bidding unit, a minimum bid increment, a start time for bidding, an end time for bidding, a new bid time extension value, whether bid values are hidden, a current bidding round number, a number of total bidding rounds, a number of bidders, a bidder identification, and a bidding history (Col. 4, lines 22-28).

Re claim 5, 26 and 37: Brett teaches the step wherein said step of transmitting an update occurs in real time relative to said step of receiving a bid (Col. 4, lines 43-46).

Re claim 31, 43 and 46: Brett teaches a bidding engine; means for monitoring said bidding session (col. 6, lines 29-32); and means for transmitting messages between said bidding session supervisor component and at least one web browser residing on at least one remote terminal (Abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brett as applied above.

Re claim 11: Brett further teaches data representative of: an identity of a bidder; the value of said bid (Abstract); a ranking of all bids received by said bidding session server (col. 4, lines 22-29). Brett does not explicitly teach a time bid was received by said bidding session server; and a time remaining in said bidding session. Official Notice is hereby taken that it is old and well known in the art to perform these steps in a bidding session. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brett to include these steps. One would have been motivated to do these so that the bidder can view the time his bid was accepted and to know the remaining time left in the bidding session for tracking purposes.

Re claim 12, 32 and 44: Brett does not explicitly teach that session server and remote terminal are located on opposite side of a firewall. Official Notice is hereby taken that it is old and well known in the art to have firewall between a server and a remote terminal. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brett to have a firewall between server and the remote terminal. One would have been motivated to do this in order to enforce network security policies.

Claims 2, 3, 25 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brett as applied above, in view of Alaia et al (U.S. Patent No. 6216114) (Alaia).

Re claims 2, 3, 25 and 36: Brett does not explicitly teach the step wherein the duration of said bidding session is automatically extended a predetermined period of time in response to the receipt of said bid by said bidding session server. Alaia teaches the step wherein the duration of said bidding session is automatically extended a predetermined period of time in response to the receipt of said bid by said bidding session server (col. 6, line 64-col. 7, line 5). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brett to this step as taught by Alaia. One would have been motivated to do this in order to prevent bidders from hanging back and submitting last minute bids in an attempt to prevent competitive reaction.

Claims 7-10, 28-30, 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brett as applied above, in view of Singh (U.S. Patent Application No. 20010047311) (Singh).

Re Claims 7-10, 28-30, 40-42: Brett does not explicitly teach the step wherein said update does not include the value of said bid; qualifying bidders to participate in said bidding session; qualifying a subset of bidders to participate in at least one additional round of bidding; inviting bidders to participate in said bidding session. Singh teaches the step wherein said update does not include the value of said bid (section [0036]); qualifying bidders to participate in said bidding session; qualifying a subset of bidders to participate in at least one additional round of bidding; inviting bidders to participate in said bidding session (section [0036] and [0051]). It would have been obvious to one of ordinary skill in the art at the time of the

invention to modify Brett to include these steps as taught by Singh. One would have been motivated to do these in order to allow flexibility for blind and/or static bids and also to ensure that only qualified bidder can participate in the bidding session, thereby enhancing the system.

Claim 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brett as applied above, in view of Jade et al (U.S. Patent No. 6061797) (Jade).

Re claim 13: Brett does not explicitly teach the step wherein said connection establishing step comprises: transmitting a connection builder from said bidding session server to a random access memory in said remote terminal; sending a request to said connection builder to identify an external communications channel for said remote terminal; and opening said external communications channel. Jade teaches the step wherein said connection establishing step comprises: transmitting a connection builder from said bidding session server to a random access memory in said remote terminal; sending a request to said connection builder to identify an external communications channel for said remote terminal; and opening said external communications channel (Abstract, col. 6, lines10-35). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brett to include these steps as taught by Jade. One would have been motivated to do this in order to provide a tunnel for establishing such "outside in" connections when they are requested.

Claims 14, 33 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brett in view of Alaia, in view of Singh as applied above and further in view of MacAfee et al (U.S. Patent No. 6718312) (MacAfee).

Re Claims 14, 33 and 45: See claims 2, 7 and 12 analyses, supra. Brett does not explicitly teach the step wherein the status information comprises at least two kinds of products to be put to bid simultaneously. MacAfee teaches the step wherein the status information comprises at least two kinds of products to be put to bid simultaneously (col. 1, lines 7-10). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brett to include this step as taught by MacAfee. One would have been motivated to do this in order to provide save time by allowing multiple products to put to bid simultaneously.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

i) Holden et al (U.S. Patent Application No. 20010032175) teaches a system for an online industrial auction site (section [0051]).

ii) Mossberg (U.S. Patent No. 5803500) teaches a method for conducting an auction

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



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